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Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 SS-20 NSC-07 SP-03 EB-11 COME-00 TRSE-00

OMB-01 IO-14 OIC-04 AID-20 CIAE-00 INR-10 NSAE-00

RSC-01 PRS-01 OPIC-12 L-03 H-03 DRC-01 /132 W
---------- 067577
P 172209Z MAY 74
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 0127

C O N F I D E N T I A L SECTION 1 OF 2 LIMA 3902

E.O. 11652: GDS
TAGS: PFOR, OAS, EGEN, ETRD, BDIS, PE
SUBJECT: PRELIMINARY PERUVIAN VIEWS ON MFM WORKING GROUP ON TRANSNATIONAL CORPORATIONS

REFS: LIMA 3698, STATE 092124, ATLANTA 43, 40

1. SUMMARY: DURING CANDID, INFORMAL DISCUSSION MAY 16 WITH EMBASSY OFFICERS, FERNANDO GUILLEN, CHIEF, ECONOMIC POLICY OFFICE, ONE OF FOREIGN MINISTRY'S MOST ABLE WORKING-LEVEL DIPLOMATS, OUTLINED FOREIGN MINISTRY'S CONCERNS WITH RESPECT TO NATURE AND SCOPE OF MFM WORKING GROUP ON TRANSNATIONAL CORPORATIONS (MNC'S). THESE ARE, INTER ALIA: PERCEIVED LIMITATION ON SOVEREIGN ROLE OF STATE ON CONTROLLING MNC'S, LACK OF SUFFICIENT SPECIFIC INFORMATION ABOUT DEFINITION AND OPERATIONS OF MNC'S, PRIVATE SECTOR INVOLVEMENT IN WORKING GROUP, CHARACTER OF PERUVIAN REPRESENTATION, AND UNLIKELIHOOD OF USG COMMITMENT FOR EFFECTIVE CONTROL OF MNC'S. GUILLEN SAID ABOVE LIST REPRESENTS PRELIMINARY VIEWS WHICH COULD UNDERGO MODIFICATION BEFORE EMBASSY RECEIVES MINISTRY'S OFFICIAL RESPONSE WITHIN NEXT FEW DAYS. END SUMMARY

2. GUILLEN PEPPERED EMBASSY OFFICERS WITH SERIES OF PROBING QUESTIONS ABOUT MNC WORKING GROUP, MOST REFLECTING PERUVIAN RESERVATIONS. PRINCIPAL CONCERNS FOLLOW:

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(A) OBLIGATION OF HOST STATE. PERU FINDS IT DIFFICULT TO

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ACCEPT ANY LIMITATION ON ITS ABSOLUTE RIGHT TO CONTROL ALL ECONOMIC ACTIVITY WITHIN ITS BORDERS SINCE PERU'S CODE FOR FOREIGN PRIVATE INVESTMENT ESTABLISHED BY LAW AND PRACTICE. DRAWING ON STATE 092124, EMBASSY OFFICERS RESPONDED THAT MAJOR PURPOSE OF WORKING GROUP EXERCISE IS TO DEFINE AN ACCEPTABLE ROLE FOR MNC'S AND THAT IT IS CONSEQUENTLY ANOMALOUS TO EXCLUDE DISCUSSION OF ROLE OF HOST GOVERNMENT SINCE RULES OF HOST GOVERNMENTS HAVE DIRECT RELATION TO MNC CONDUCT. (WE ARE ALSO PASSING TO HIM COPY OF SECRETARY'S APRIL 20 SPEECH NOTING THAT USG BELIEVES WORKING GROUP COULD DRAW ON THIS OR SIMILAR LANGUAGE AS BASIS FOR BRIEF, GENERAL STATEMENT OF PRINCIPLES.)

(B) LACK OF ADEQUATE INFORMATION ABOUT MNC'S. REFLECTING GENERAL PERUVIAN CRITIQUE OF MNC OPERATIONS OUTLINED ATLANTA 40, GUILLEN SAID PERU REMAINS CONCERNED ABOUT LACK OF ADEQUATE INFORMATION ABOUT MNC'S ACTIVITIES. SCHOLARS DO NOT AGREE ON WHAT CONSTITUTES AN MNC AND MNC OPERATIONS REMAIN A MYSTERY TO OUTSIDERS, EVEN TO ASTUTE US OBSERVERS. FEW, FOR EXAMPLE, GRASP TRUE NATURE OF DECISION-MAKING PROCESS AT CORPORATE HEADQUARTERS, RELATIONSHIP BETWEEN HEADQUARTERS AND OTHER PROFIT CENTERS, TRANSFER PRICING, SHORT-TERM CAPITAL FLOWS, AND TAX HAVEN PRACTICES. PERU SUPPORTS IDEA OF FACT-FINDING MECHANISM FOR INVESTMENT DISPUTES, BUT PRIOR TO ESTABLISHMENT SUCH A MECHANISM, SIMILAR "FACT-FINDING" RESEARCH NEEDED FOR USE IN SUBSTANTIVE AND TECHNICAL DISCUSSION SESSION SO THAT WORKING GROUP WILL HAVE CLEAR BASIS UPON WHICH TO PROCEED.

(C) ROLE OF PRIVATE SECTOR IN WORKING GROUP. GUILLEN ALSO WONDERS WHETHER AND UNDER WHAT CIRCUMSTANCES PRIVATE SECTOR REPRESENTATIVES WOULD BE INVOLVED IN WORKING GROUP, IF AT ALL.

(D) PERUVIAN REPRESENTATIVE. UNKNOWN HOW PERU WILL CONSTITUTE ITS DELEGATION, BUT IT LIKELY THAT RANKING OFFICIAL (PRESUMABLY FROM FOREIGN MINISTRY) WITH AUTHORITY MAKE POLICY DECISIONS WILL HEAD DELEGATION, ALONG WITH TECHNICAL SPECIALISTS. GUILLEN AT THIS POINT MUSED THAT PERU FEARS THE U.S. MONOPOLY OF INFORMATION ABOUT MNC OPERATIONS, WHEREAS PERU POSSESSES NO ONE REALLY KNOWLEDGEABLE IN THE FIELD.

(E) USG COMMITMENT TO CHANGE. GUILLEN'S PERSONAL (AND CONFIDENTIAL

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SKEPTICAL) VIEW IS THAT LATINS' MINIMUM REQUIREMENTS FOR CONTROL ON MNC ACTIVITIES MAY EXCEED WHAT USG CAN PRACTICALLY OR POLITICALLY ACCEPT. HE SAID HE UNDERSTANDS THAT MNC'S HAVE RELATIVE FREEDOM IN US SYSTEM WHICH IS NOT PERMITTED IN LATIN AMERICAN CONTEXT. ALTHOUGH ADMITTING THIS VIEW INCONSISTENT WITH PERUVIAN OPPOSITION TO DISCUSSION OF GOVERNMENT OBLIGATIONS TOWARD MNC'S, IT IS NONETHELESS PERMISSIBLE BECAUSE OF OVERWHELMING ECONOMIC POWER OF MNC'S IN MODERN WORLD.

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(F) OUR SCENARIO. GUILLEN DID NOT COMMENT DIRECTLY ON PLANNED USG SCENARIO, BUT APPEARED TO AGREE IN GENERAL WITH OUTLINE WE HAVE PRESENTED.

3. COMMENT AND ACTION REQUEST: EMBASSY DOES NOT BELIEVE WE SHOULD HAVE ANY ILLUSION ABOUT OBSTACLES TO BE OVERCOME WITH PERUVIANS IN ORDER REACH MUTUALLY ACCEPTABLE MNC AGREEMENT. GUILLEN'S POSITION WE BELIEVE ACCURATELY REFLECTS PRESENT MINISTRY THINKING. IT IS ALSO CLEAR, HOWEVER, THAT SOME OF PERU'S DEFENSIVENESS ON MNC ISSUE PROBABLY BASED ON FACT THAT MINISTRY OFFICIALS ARE GROPING FOR A COHERENT RESPONSE TO OUR MNC INITIATIVE WHICH HAS PLACED THEM IN UNCOMFORTABLE POSITION OF HAVING TO REVIEW SOME OF THEIR CHERISHED SHIBB-OLETHS ABOUT PROPER ROLE OF MNC. THUS, FOR ONE THING, THEIR INSISTENCE ON NEW STUDIES WHICH THEY PUSHED SO VIGOROUSLY IN ATLANTA AND WHICH WE EXPECT WILL ALSO ARISE DURING WORKING GROUP SESSIONS.

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OMB-01 IO-14 OIC-04 AID-20 CIAE-00 INR-10 NSAE-00

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P 172209Z MAY 74
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 0128

C O N F I D E N T I A L SECTION 2 OF 2 LIMA 3902

FURTHER, MINISTRY HAS GENUINE (AND PROBABLY WELL-FOUNDED) DOUBTS ABOUT GOP'S LEVEL OF TECHNICAL COMPETENCE TO DISCUSS MORE DETAILED ASPECTS OF MNC OPERATIONS. (GOP HAS THREE DIFFERENCE GROUPS STUDYING TECHNOLOGY TRANSFER QUESTION, BUT APPARENTLY FEW IF ANY EXPERTS ON MNC'S). IN REGARD THIS POINT, WE WOULD APPRECIATE RECEIVING ANY (EVEN PRELIMINARY) INFORM-ATION WHICH DEPARTMENT MAY HAVE ON ORGANIZATION OF TECHNICAL DISCUSSIONS, WITH PARTICULAR REFERENCE TO POTENTIAL ROLE OF

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PRIVATE BUSINESS AND ACADEMIC EXPERTS AS SOURCES OF TECHNICAL
INPUT, AS WELL AS ANY OTHER INITIATIVES OR VIEWS DEPARTMENT
MAY HAVE FOR EMBASSY'S FUTURE DISCUSSION WITH GOP ON THIS
SUBJECT.
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